

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

CIVIL REVISION APPLICATION No 770 of 1994

For Approval and Signature:

Hon'ble MR.JUSTICE S.D.SHAH

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?
1 to 5 No

AHMEDABAD MUNICIPAL CORPN

Versus

PARSHOTTAM ANJAJI

Appearance:

MRS VAIBHAVI NANAVATI for Petitioner
Respondent No. 1 SERVED BY DS

CORAM : MR.JUSTICE S.D.SHAH

Date of decision: 26/08/97

ORAL JUDGEMENT

1. The present Civil Revision Application is directed against the judgment and order of Motor Accident Claims Tribunal No.3 Auxiliary dated 7th of March, 1994 whereby the Tribunal was pleased to award to the claimants the amount of Rs. 12,000/- on the basis of doctrine of no fault liability which was then in existence under Section 92A of the Motor Vehicles Act,

1939. In the present case, admittedly, the accident has taken place on 11th of August 1986 and the claimant applied to the Tribunal for an amount of Rs. 25,000/- under Section 140A of the Motor Vehicles Act, 1988 for the award of the amount of Rs. 12,000/- being the amount towards no fault liability. Now it is not in dispute that the accident took place i.e. on 11th August, 1986. There was no liability on the owner of the motor vehicle for payment of compensation without establishing the fact of negligence or in other words there was no principle of paying compensation on the principle popularly known as principle of 'no fault liability'.

2. Mrs. Vaibhavi Nanavati appearing for Ahmedabad Municipal Corporation has submitted before the court that the Tribunal ought not to have awarded the amount of Rs. 12,000/- under Section 140A of the present Act of 1988 as admittedly, the accident has taken place prior to coming into force of the present Act 1988. She has in this connection placed reliance upon the decision in the case of GUJARAT STATE ROAD TRANSPORT CORPORATION vs. HEIRS AND LEGAL REPRESENTATIVES OF DECEASED KASHIBEN, reported in 1993 (2) GLH (UJ). This court while deciding the scope of Section 140A of the present Act of 1988 found in that case that the accident had admittedly took place before the new Act of 1988 came into force and, therefore, the provisions of the old Act of 1939 would apply. Under the provisions of old Act under "NO FAULT LIABILITY" claimants would be entitled to an amount of Rs.7,500/- only when the case is one of personal injury and not of death of the victim in a vehicular accident. In the case before the Tribunal, the claim was the boy aged about 19 years and he has received personal injuries. It is not the case of the death of the person in vehicular accident. In view of the facts of the present case, the case is squarely covered by the aforesaid decision of this Court in 1993 (2) GLH (UJ)6 and following the said judgment, at the time of issuance of rule nisi, the learned Single Judge of this Court has directed the present petitioner to deposit the amount of Rs. 7,500/- within a period of four weeks from 11th July, 1994. The said amount is deposited. In that view of the matter, no further directions are required to be issued and the judgment and award of the Tribunal dated 7th March, 1994 passed under Section 140A of the Act of 1988 is substituted by the direction calling upon the present petitioner to deposit the amount of Rs. 7,500/- with liberty to the claimant to withdraw the same. The order of the Tribunal stands modified to the aforesaid extent. Rule is made absolute. No costs.

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